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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,839	04/19/2004	Alex K. Gendall	12,606	2092
7590	04/19/2006		EXAMINER	
William W. Haefliger 201 So. Lake Ave., #512 Pasadena, CA 91101			HANEY, RICHALE LEE	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/826,839	GENDALL, ALEX K.	
	Examiner	Art Unit	
	Richale L. Haney	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 February 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 10-13 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,10-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: Examiners amendment.

DETAILED ACTION

Response to Amendment

The amendment of 2/2/2006 has been received. Claim 1 has been amended. Claims 2 – 9 and 11 have been cancelled. Claim 13 is new. Claims 1, 10, 12, and 13 are pending in the application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 10, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quinn (US 1,327,062) in view of Fleitman (US 5,377,360). The device of Quinn shows a two ply bandana device of a generally triangular shape (Figure 1, 1) having two upper corners on with opposite sides (Figure 1, 2 and 5) each corner defining and each upper corner defining an upper horizontal edge and side edge (Figure 1) extending downward to meet at an apex. The device comprises press together attachment components at each opposite corner (Figure 1, 7 and 2) proximate the edges of the device. Quinn shows a corner portion, comprised of four layers, achieved by folding the triangular upper corner back to form a corner and stitched (6), which supports an attachment component (Figure 2). The device of Quinn does not show the device used as claimed by the applicant; however the structure that has be set forth

would allow the device to be worn on the face of a rider wearing a helmet so that the scarf is located below the lowermost rear edge of the helmet and the components being pressed together to retain the device over the wearers face protecting the rider from environmental elements. The device of Quinn substantially describes the claimed invention but can be seen to be lacking components comprised of hook and loop tape sewn to the reinforced corner portion, wherein area A_1 is greater than A_2 , and a resiliently yieldable attachment component. The device of Fleitman shows an article of apparel with a base portion comprising hook elements and a base portion comprising loop elements forming an attachment component (Figure 1, 22a and 22b), wherein the face of 22b is greater than the face of 22a (Figure 2) so that the device can be adjusted by shifting the position of 22b to 22a and also provides a resiliently yieldable means, comprising elasticity found in the fabric so that when the attachment component is secured to the fabric the components may shift position resiliently relative to the bandana corners (Column 3, lines 32 –38). It is well known in the art that hook and loop tape is applied by stitching. The device of Quinn does not show two opposite corners being formed from folding back a triangular portion of the main fabric; however, the mere duplication of parts has no patentable significance. See *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment components shown by Quinn, by utilizing hook and loop tape with unequal face portions and a resiliently yieldable attachment as taught by Fleitman, in order to obtain and adjustable length (Column 3, lines 11 - 12) and provide a snug, yet comfortable fit (Column 3, lines 35 –

36). Replacing the attachment element of Quinn, that is located to overlie the major length of the respective corner sections, with the hook and loop tape of Fleitman, the combination produces the invention as claimed by the applicant.

Response to Arguments

Applicant's arguments filed 2/2/2006 have been fully considered but they are not persuasive.

Applicant submits that the cited art fails to disclose a "folded corner section forming four layers of said fabric, said components stitched to said respective corner sections, said components having generally rectangular face area outline, whereby the components overlap angled edges defined by the respective corner edges". According to the applicants remarks the device of Quinn teaches away from a rectangular attachment for load spreading. The examiner relies on Fleitman to teach the rectangular attachment comprising hook and loop tape, which is known in the art to be connected to material by stitching. It would have been an obvious modification for one of ordinary skill in the art to substitute one known means of attachment with another well known means of attachment. Therefore, substituting the male and female connection means of Quinn with the male and female hook and loop connection of Fleitman is a proper combination and meets the limitations as recited by the applicant.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571 -272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richale L. Haney
Patent Examiner
Art Unit 3765
April 5, 2006

RLH



JOHN CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Haefliger on 4/5/2006.

The application has been amended as follows:

Claims 2 –4 have been cancelled.